

**State of New Hampshire  
Board of Licensure for Professional Engineers  
Concord, New Hampshire 03301**

In the Matter of:  
Michael D. Zimmerman, P.E.  
No.: 9078  
(Misconduct Allegations)

**SETTLEMENT AGREEMENT**

In order to avoid the delay and expense of further proceedings and to promote the best interests of the public and the practice of engineering, the New Hampshire Board of Licensure for Professional Engineers ("Board") and Michael D. Zimmerman, P.E. ("Mr. Zimmerman" or "Respondent"), an engineer licensed by the Board, do hereby stipulate and agree to resolve certain allegations of professional misconduct now pending before the Board according to the following terms and conditions:

1. Pursuant to RSA 310-A:22; RSA 310-A:22-a; and Engineering Administrative Rule ("Eng") 402, the Board has jurisdiction to investigate and adjudicate allegations of professional misconduct committed by licensed engineers. Pursuant to Eng 402.02, the Board may impose disciplinary sanctions pursuant to a settlement agreement and without commencing a hearing.
2. The Board first granted Respondent a license as an engineer in the State of New Hampshire on August 16, 1995. Respondent holds license number 9078. Respondent practices engineering at Allied Consulting Engineering Services, 215 Boston Post Rd., Sudbury, MA 01776.

3. On or about June 10, 2009, the Board received information that Respondent failed to report discipline by the New Jersey Board of Professional Engineers and Land Surveyors ("New Jersey Board") in his New Hampshire renewal application.
4. In response to this, the Board conducted an investigation and obtained information from various sources pertaining to Respondent's questionable conduct. During the investigation into Respondent's New Jersey discipline, it was also learned that he had been disciplined in Vermont.
5. The Board's investigation revealed and Respondent freely admits to the following facts:
  - A. On July 24, 2003, the New Jersey Board issued a Final Order of Discipline against Respondent. According to the Final Order of Discipline, Respondent's New Jersey license lapsed on May 31, 2002 and he did not apply for reinstatement until May 6, 2003. Respondent practiced engineering in New Jersey without a license during the interim period. The New Jersey Board issued a reprimand and imposed a fine in the amount of \$500.00.
  - B. Respondent failed to report this disciplinary action on his 2005 application to renew his New Hampshire license, and on subsequent New Hampshire renewal applications. When asked on the New Hampshire renewal applications if he had been the subject of any disciplinary action, Respondent answered "No."
  - C. On March 11, 2004, Respondent signed a Stipulation and Consent Order with regard to his Vermont license. The Vermont Board issued the Stipulation and Consent Order on April 1, 2004.

D. According to the Stipulation and Consent Order, Respondent had been hired to work as a professional engineer on Westview Meadows in Montpelier, Vermont - a seniors' living facility project. During the course of this project, Respondent placed his stamp on engineering drawings, which were outside the discipline of mechanical engineering.

E. The Vermont Board issued a warning against Respondent's license and imposed a fine of \$700.

F. Respondent also failed to report this Vermont disciplinary action on his 2005 application to renew his New Hampshire license, and on subsequent New Hampshire renewal applications. When asked on the New Hampshire renewal application if he had been the subject of any disciplinary action, Respondent answered "No."

G. During the course of this investigation, Respondent was asked if he had reported this discipline to licensing boards in other states where he was licensed. Respondent initially reported that he no longer possessed the relevant paperwork and could not provide an answer.

H. Respondent was asked to contact the individual licensing boards to determine if he had provided accurate information. Respondent was asked to provide this information by September 4, 2009. Respondent failed to provide the requested information.

6. The Board finds that Respondent committed the acts as described above and concludes that, by engaging in such conduct, Respondent violated RSA 310-A:22, II (i) and Eng 401.03 (e).

7. Respondent acknowledges that this conduct constitutes grounds for the Board to impose disciplinary sanctions against Respondent's engineering license in the State of New Hampshire.
8. Respondent consents to the Board imposing the following discipline, pursuant to RSA 310-A:23:
  - A. Respondent is **reprimanded**.
  - B. Respondent is assessed an administrative fine in the amount of \$3,500. Respondent shall pay this fine in seven (7) equal installments of \$500 each, with the first payment due within thirty (30) days of the effective date of this Settlement Agreement, as defined further below. Each subsequent payment shall be made by the first of each subsequent month. All payments shall be made by delivering a money order or bank check, made payable to "Treasurer, State of New Hampshire", to the Board's office at 57 Regional Drive, Concord, New Hampshire 03301.
  - C. The Board may consider Respondent's compliance with the terms and conditions herein and in any subsequent proceeding before the Board regarding Respondent's license.
  - D. Within ten (10) days of the effective date of this Settlement Agreement, as defined further below, Respondent shall furnish a copy of the Settlement Agreement to any current employer for whom Respondent performs services as an engineer and to any agency or authority which licenses, certifies or credentials engineers, with which Respondent is presently affiliated.

E. For a continuing period of one (1) year from the effective date of this Settlement Agreement, Respondent shall furnish a copy of this Settlement Agreement to any employer to which Respondent may apply for work as an engineer and to any agency or authority that licenses, certifies or credentials engineers, to which Respondent may apply for any professional privileges or recognition.

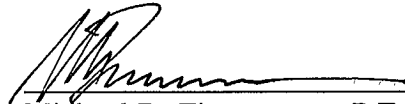
9. Respondent's breach of any terms or conditions of this *Settlement Agreement* shall constitute unprofessional conduct pursuant to RSA 310-A:22, and a separate and sufficient basis for further disciplinary action by the Board.
10. Except as provided herein, this *Settlement Agreement* shall bar the commencement of further disciplinary action by the Board based upon the misconduct described above. However, the Board may consider this misconduct as evidence of a pattern of conduct in the event that similar misconduct is proven against Respondent in the future. Additionally, the Board may consider the fact that discipline was imposed by this Order as a factor in determining appropriate discipline should any further misconduct be proven against Respondent in the future.
11. This *Settlement Agreement* shall become a permanent part of Respondent's file, which is maintained by the Board as a public document.
12. Respondent voluntarily enters into and signs this *Settlement Agreement* and states that no promises or representations have been made to him other than those terms and conditions expressly stated herein.

13. The Board agrees that in return for Respondent executing this *Settlement Agreement*, the Board will not proceed with the formal adjudicatory process based upon the facts described herein.
14. Respondent understands that his action in entering into this *Settlement Agreement* is a final act and not subject to reconsideration or judicial review or appeal.
15. Respondent has had the opportunity to seek and obtain the advice of an attorney of his choosing in connection with his decision to enter into this *Settlement Agreement*.
16. Respondent understands that the Board must review and accept the terms of this *Settlement Agreement*. If the Board rejects any portion, the entire *Settlement Agreement* shall be null and void. Respondent specifically waives any claims that any disclosures made to the Board during its review of this *Settlement Agreement* have prejudiced his right to a fair and impartial hearing in the future if this *Settlement Agreement* is not accepted by the Board.
17. Respondent is not under the influence of any drugs or alcohol at the time he signs this *Settlement Agreement*.
18. Respondent certifies that he has read this document titled *Settlement Agreement*. Respondent understands that he has the right to a formal adjudicatory hearing concerning this matter and that at said hearing he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, and to appeal to the courts. Further, Respondent fully understands the nature, quality and dimensions of these rights. Respondent understands that by signing this *Settlement Agreement*, he waives these rights as they pertain to the misconduct described herein.


19. This *Settlement Agreement* shall take effect as an Order of the Board on the date it is signed by an authorized representative of the Board.

**FOR RESPONDENT**

Date: 12/8/10

  
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Michael D. Zimmerman, P.E.  
Respondent

Date: 12/20/10

  
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Brian Quirk, Esq.  
Counsel for Respondent

**FOR THE BOARD/\***

This proceeding is hereby terminated in accordance with the binding terms and conditions set forth above.

Date: 12/21/10

Louise Laverie  
(Signature)

Louise Laverie, Executive Director  
(Print or Type Name)  
Authorized Representative of the  
New Hampshire Board of Licensure for  
Professional Engineers

/\* Board member(s), recused:  
Lee Carroll, P.E.